

House File 321 - Introduced

HOUSE FILE 321

BY LOFGREN and SCHULTZ

A BILL FOR

1 An Act limiting public retirement benefits for prisoners.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 97A.6, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 17. *Limitations on benefits — prisoners.*

4 a. An individual who is otherwise entitled to a retirement
5 allowance under this chapter shall not receive a retirement
6 allowance for any month during which both of the following
7 conditions exist:

8 (1) The individual is confined in a jail, prison, or
9 correctional facility pursuant to the individual's conviction
10 of a felony.

11 (2) The individual has a spouse, or a child or children, as
12 defined in section 97A.1.

13 b. The amount of the retirement allowance not paid to the
14 individual under paragraph "a" shall be paid in the following
15 order of priority:

16 (1) To the individual's spouse, if any.

17 (2) If there is no spouse, then to the individual's child or
18 children, as defined in section 97A.1.

19 c. This subsection shall not be construed in a manner that
20 impairs the rights of any individual under a marital property,
21 spousal support, or child support order. In addition, this
22 subsection shall not be construed to impair the statutory
23 rights of a governmental entity, including but not limited to
24 the right of a governmental entity to collect an amount for
25 deposit in the victim compensation fund established in chapter
26 915.

27 Sec. 2. NEW SECTION. 97B.49J *Limitations on benefits —*
28 *prisoners.*

29 1. An individual who is otherwise entitled to a retirement
30 allowance under this chapter shall not receive a retirement
31 allowance for any month during which both of the following
32 conditions exist:

33 a. The individual is confined in a jail, prison, or
34 correctional facility pursuant to the individual's conviction
35 of a felony.

1 *b.* The individual has a spouse, or a child or children.

2 2. The amount of the retirement allowance not paid to the
3 individual under subsection 1 shall be paid in the following
4 order of priority:

5 *a.* To the individual's spouse, if any.

6 *b.* If there is no spouse, then to the individual's child or
7 children.

8 3. This section shall not be construed in a manner that
9 impairs the rights of any individual under a marital property,
10 spousal support, or child support order. In addition, this
11 section shall not be construed to impair the statutory rights
12 of a governmental entity, including but not limited to the
13 right of a governmental entity to collect an amount for deposit
14 in the victim compensation fund established in chapter 915.

15 Sec. 3. Section 602.9114, Code 2013, is amended to read as
16 follows:

17 **602.9114 Forfeiture of benefits — refund limitations on**
18 **benefits.**

19 1. Forfeiture of benefits — refund. If a judge covered
20 under this part is removed for cause other than permanent
21 disability the judge and the judge's survivor shall forfeit the
22 right to any retirement benefits under the system but the total
23 amount in the judge's individual account shall be returned to
24 the judge or the judge's legal representatives within one year
25 of the removal.

26 2. Limitations on benefits — prisoners.

27 *a.* An individual who is otherwise entitled to a retirement
28 allowance under this part shall not receive a retirement
29 allowance for any month during which both of the following
30 conditions exist:

31 (1) The individual is confined in a jail, prison, or
32 correctional facility pursuant to the individual's conviction
33 of a felony.

34 (2) The individual has a spouse, or a child or children.

35 *b.* The amount of the retirement allowance not paid to the

1 individual under paragraph "a" shall be paid in the following
2 order of priority:

3 (1) To the individual's spouse, if any.

4 (2) If there is no spouse, then to the individual's child
5 or children.

c. This subsection shall not be construed in a manner that
impairs the rights of any individual under a marital property,
spousal support, or child support order. In addition, this
subsection shall not be construed to impair the statutory
rights of a governmental entity, including but not limited to
the right of a governmental entity to collect an amount for
deposit in the victim compensation fund established in chapter
915.

EXPLANATION

15 This bill provides that an individual otherwise eligible for
16 a pension under the public safety peace officers' retirement,
17 accident, and disability system (PORS) under Code chapter 97A,
18 the Iowa public employees' retirement system (IPERS) under
19 Code chapter 97B, or the judicial retirement system under Code
20 chapter 602, would be ineligible for benefits for that period
21 when the individual is incarcerated due to a conviction for a
22 felony. The bill provides that the individual's pension would
23 be paid to the individual's spouse, if any, and then to any
24 children of the individual. However, if no spouse or children
25 exist, then the pension remains payable to the individual.
26 The bill does provide, however, that the new provisions do
27 not impair the right of a person entitled to an amount from
28 the member pursuant to a marital property, spousal support,
29 or child support agreement and do not impair the statutory
30 rights of a governmental entity. Current law provides for
31 this limitation on benefits for individuals receiving a
32 pension under the statewide fire and police retirement system
33 established under Code chapter 411.